

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA**

UNITED STATES OF AMERICA	:	CIVIL ACTION
	:	
v.	:	NO. 04-0647
	:	
ENRIQUE IGLESIAS	:	

MEMORANDUM

STENGEL, J.

December 28, 2005

On August 16, 2005, a jury convicted Enrique Iglesias of conspiracy to distribute methamphetamine in violation of 21 U.S.C. § 846, possession with intent to distribute methamphetamine in violation of 21 U.S.C. § 841(a)(1), possession of a firearm in furtherance of a drug trafficking crime in violation of 18 U.S.C. § 924(c)(1), and possession of a firearm by a convicted felon in violation of 18 U.S.C. § 922 (g)(1). In response to special interrogatories, the jury found these offenses involved more than fifty (50) grams of a mixture or substance containing a detectable amount of methamphetamine, but not more than five hundred (500) grams.

Mr. Iglesias filed a timely motion for judgment of acquittal under Rule 29(c) of the Federal Rules of Criminal Procedure, arguing the evidence was insufficient to sustain the verdicts. He insists that because there was no identification linking him to the gun or its container, the jury must have been guessing when it found that he possessed the firearm.

A defendant challenging the sufficiency of the evidence bears a heavy burden. Granting relief under Rule 29 is “confined to cases where the prosecution’s failure is

clear.” United States v. Leon, 739 F.2d 885, 891 (3d Cir. 1984)). In reviewing such a motion, I must view the evidence in the light most favorable to the Government and may not weigh the evidence or make credibility determinations. United States v. Giampa, 758 F.2d 928, 934-935 (3d Cir. 1985). Relief is only appropriate “if no reasonable juror could accept the evidence as sufficient to support the conclusion of the Defendant’s guilt beyond a reasonable doubt.” United States v. Coleman, 811 F.2d 804, 807 (3d Cir. 1986) (citing United States v. Castro, 776 F.2d 1118, 1125 (3d Cir. 1981)). Stated another way, I must determine whether “a reasonable jury believing the Government’s evidence could find beyond a reasonable doubt that the Government proved all the elements of the offenses.” United States v. Salmon, 944 F.2d 1106, 1113 (3d Cir. 1991); Coleman, 811 F.2d at 807.

The Government’s evidence against Mr. Iglesias was largely circumstantial. While drawing inferences from established facts is an acceptable method of proof when direct evidence is not available, the inferences drawn must have a logical and convincing connection to the facts established. United States v. McNeill, 887 F.2d 448, 450 (3d Cir. 1989). The fact that evidence is circumstantial does not mean it is less probative than direct evidence. United States v. Bycer, 593 F.2d 549, 551 (3d Cir. 1979). Thus, I must determine whether the proved facts logically support an inference of guilt. Id.

My analysis of the evidence produced at trial is that it is sufficient to support the jury’s verdict. During the early evening of August 19, 2004, a valid search warrant was

executed at the defendant's Philadelphia residence, which revealed 156 grams of methamphetamine, \$17,084.53 in cash, a loaded semi-automatic firearm with an obliterated serial number, paperwork in the defendant's name, pictures of the defendant, food-saver baggies, a heat-sealing machine, packaging materials, other drug paraphernalia, and keys to a Volvo automobile parked on the defendant's property.

The Government is not required to prove that Mr. Iglesias had actual possession of the firearm, but merely that he had constructive possession. United States v. Brown, 3 F.3d 673, 680 (3d Cir. 1993) (citing United States v. Iafelice, 978 F.2d 92, 96 (3d Cir. 1992)). Constructive possession requires that the Government show that an individual had both dominion and control over an object and knew about that object's existence. Id. Such dominion and control need not be exclusive and may be shared with others. United States v. Davis, 461 F.2d 1026, 1035 (3d Cir. 1972). Here, the Government provided evidence at trial sufficient to permit a reasonable jury to conclude that Mr. Iglesias had both dominion and control over the loaded weapon and the drugs. The Assistant United States Attorney presented evidence that Mr. Iglesias lived in the residence and even helped manage the building for his brother, the building's owner. In a bedroom adjacent the master bedroom, agents found the loaded gun and Mr. Iglesias's computer. Drug paraphernalia and baggies containing methamphetamine were scattered throughout the

apartment. Viewing this evidence in the light most favorable to the Government, I am convinced that a reasonable juror could accept it as sufficient to support the conclusion of Mr. Iglesias's guilt beyond a reasonable doubt.

Mr. Iglesias also argues that "the jury should have been instructed as to a possible verdict of guilty for simple possession of the drugs allegedly in constructive joint possession" inside his residence. Unfortunately, a party who has not challenged a trial court's jury instructions at an appropriate time is deemed to have waived such a challenge.

Rule 30 of the Federal Rules of Criminal Procedure provides, in relevant part, that

A party who objects to any portion of the instructions or to a failure to give a requested instruction must inform the court of the specific objection and the grounds for the objection before the jury retires to deliberate. An opportunity must be given to object out of the jury's hearing and, on request, out of the jury's presence. Failure to object in accordance with this rule precludes appellate review, except as permitted under Rule 52(b).

Rule 30(d) of the Federal Rules of Criminal Procedure.

The Court of Appeals for the Third Circuit has recognized that "the crux of Rule 30 is that the district court be given notice of potential errors in the jury instructions, not that a party be 'required to adhere to any formalities of language and style to preserve his objection on the record.'" United States v. Russell, 134 F.3d 171, 178 (3d Cir. 1998); see also United States v. Logan, 717 F.2d 84, 91 n.13 (3d Cir. 1983) (Rule 30 has the manifest purpose of avoiding whenever possible the necessity of a time-consuming new trial by providing the trial judge with an opportunity to correct any mistakes in the charge

before the jury begins to deliberate). However, an objection must nevertheless be sufficiently precise to allow the trial court to address the concerns raised in the objection. Thus, counsel must “state distinctly the matter to which that party objects and the grounds of the objection.” Russell, 134 F.3d at 179 (citing United States v. Sandini, 803 F.2d 123 (3d Cir. 1986)). Counsel is required to draw the court’s attention to a specific instruction, or to a problem with an instruction, in order to put the court on notice so that a possible error may be corrected before the jury begins to deliberate.” United States v. Davis, 183 F.3d 231, 252 (3d Cir. 1999) (discussing requests for jury instructions generally). Without a clearly articulated objection, a trial court is not sufficiently apprized of the contested issue and the need to cure a potential error to avoid a new trial. Government of the Virgin Islands v. Knight, 989 F.2d 619, 631 (3d Cir. 1993).

Prior to charging the jury, I conducted a charge conference with counsel. The parties were provided with a written draft of the court’s proposed instructions and explicitly invited to lodge exceptions for the record. The record reveals no objection to the omission of an instruction on the possibility of a verdict of guilty for simple possession of a controlled substance. Nor did Mr. Iglesias object to the relevant aspects of the proposed verdict form, which did not contain an option of finding him guilty of simple possession of drugs. Moreover, after charging the jury I asked counsel at sidebar if there were objections to the charge, if any additional instructions were required, or if there was a need for clarification of any points to the charge. Counsel responded that the

jury charge was satisfactory as given. Mr. Iglesias's failure to object to either the court's instructions or the verdict sheet constitutes a failure to preserve his objection. Russell, 134 F.3d at 179.

An appropriate Order follows.

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ORDER

STENGEL, J.

AND NOW, this 28th day of December, 2005, upon consideration of Defendant's motion for judgment of acquittal under Rule 29(c) of the Federal Rules of Criminal Procedure (Doc. No. 56), and the Government's response thereto (Doc. No. 58), it is hereby **ORDERED** that the motion is **DENIED** in its entirety.

BY THE COURT:

LAWRENCE F. STENGEL, J.